IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH, JAIPUR

S.B.CIVIL WRIT PETITION NO.4282/1996.
S.B.CIVIL WRIT PETITION NO.4374/1996.

07.09.2006.

HON'BLE MR.JUSTICE DALIP SINGH

Mr.H.S.Khandelwal on behalf of
Mr.M.M.Ranjan, for the petitioners.
Mr.B.K.Sharma, Deputy Government Advocate.
Mr.S.C.Sharma, for the respondent No.5.

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In both these writ petitions, the petitioners have raised common question and have challenged the order passed by the Settlement Officer-Cum-Revenue Appellate Authority, Jaipur dated 21.06.1996 whereby the appeals filed by the petitioners under Section 75(1) of the Rajasthan Land Revenue Act, 1956 against the orders of allotment dated 19.02.1994 have been dismissed as being barred by limitation.

Vide order dated 19.02.1994 on the advise of the Advisory Committee, portions of the land bearing Khasra No.961 in village Choodiyabas, Tehsil Dausa, District Dausa were allotted to the various persons including the petitioners and respondents Shrawan and Chhitar. The petitioner preferred an appeal against the order of allotment dated 19.02.1994 on 18.09.1995. The period of limitation for filing the appeal under Section 75 admitted as mentioned in the order of the learned Revenue Appellate Authority is 60 days from the passing of the order but the present appeals have been filed after more than a year. Though along with the appeals, applications under Section 5 and Section 14 of the Limitation Act, 1963 were also filed. On the filing of the appeal, a preliminary objection was raised by the respondents that the appeals were barred by limitation.

The petitioners who were appellants before the learned Revenue Appellate Authority submitted that they had filed applications under Section 5 and 14 of the Limitation Act and that they had also filed

their affidavits along with the same.

The case of the petitioners who were appellants was that against the orders of allotment dated 19.02.1994, the petitioners had preferred applications under Rule 14 Clause (4) of the Rajasthan Land Revenue (Allotment of Land for Agricultural Purposes) Rules, 1970 (hereinafter shall be referred to as "the Rules of 1970") wherein it is open for the Collector to cancel the order of allotment made by the S.D.O. or Tehsildar under the Rules of 1970 either *suo moto* or on the application of any person in case the allotment has been secured through fraud or misrepresentation or has been made against the Rules or in case the allottee has committed any breach of conditions of the allotment. The petitioners' case was that the petitioners were pursuing the aforesaid applications filed under Rule 14(4) of the Rules of 1970 before the Collector which were ultimately dismissed by the Collector vide order dated 31.07.1995. It was submitted that against the order of rejection of the application under Rule 14(4), the petitioners' preferred a revision before the learned Board of Revenue and the learned Board of Revenue by the judgment dated 14.09.1995 dismissed the same.

The petitioners preferred appeal before the learned Revenue Appellate Authority under Section 75 of the Rajasthan Land Revenue Act by filing the same on 18.09.1995 challenging the order of allotment dated 19.02.1994. The said appeal was dismissed by the learned Revenue Appellate Authority by the impugned order dated 21.06.1996.

Learned counsel for the respondent, on the other hand, has contended that against the decision of the learned Revenue Appellate Authority dismissing the appeals, the petitioners have an alternative statutory remedy of second appeal under Section 76 Clause (d) of filing an appeal before the learned Board of Revenue and the petitioners not having availed the statutory remedy, cannot be permitted to seek the extraordinary remedy under Article 226 of the Constitution of India.

I am inclined to accept the contentions of the learned counsel for the respondents that the petitioners had an alternative statutory remedy

by way of filing second appeal before the learned Board of Revenue under Section 76(1)(d) of the Rajasthan Land Revenue Act, 1956 and cannot be permitted to file this writ petition directly against the dismissal of their appeal by the learned Revenue Appellate Authority.

Consequently, both these writ petitions are dismissed on the ground of alternative remedy. The petitioners are at liberty to file second appeal before the learned Board of Revenue.

(DALIP SINGH),J.

Solanki DS, Jr.P.A.